



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

Via Electronic Mail To: tom@baeus.us

Docket No. F-02-2020-5088

Tom Staub
Better Air Environments LLC
8 Woodfield Road
Andover, NJ 07821-2001

Re: NOTICE OF REFUSAL OF ADMISSION

Import of BetterAir BA-1800 Refill Cartridges, Entry No. BTQ-06188738

Dear Mr. Staub:

In connection with the enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA" or "the Act"), as amended, 7 U.S.C. § 136, et seq., the United States Environmental Protection Agency – Region 2 ("EPA" or the "Region") has examined samples or other evidence with respect to the following shipment:

Product Name: BA-1800 Refill Cartridge
Importer: Better Air Environments LLC
Manufacturer: EcoSense Group Middle East Ltd
Bill Number: 01628691795-5995330231
Entry Number: BTQ-06188738
Arrival Date: 08/23/20
Entry Date: 08/31/20
Port of Entry: 4601 – New York/Newark
Entry Line: 1
Cargo Description: Probiotics Room Spray
Amount: 40 1-L bottles

Your company was previously notified via a Notice of Detention and Hearing ("NOD"), dated September 2, 2020, that the above-referenced products appear to be out of compliance with the Act and therefore subject to refusal of admission. Specifically, your company was told that these products are unregistered pesticides because they are intended to eliminate pathogens, mold, and dust mites and that the products are not registered with EPA in accordance with FIFRA § 3(a), 7 U.S.C. § 136a(a). Unregistered pesticides are prohibited from sale and distribution in the U.S.; therefore, any sale or distribution of these products is a violation of FIFRA § 12(a)(1)(A), 7 U.S.C. § 136j(a)(1)(A).

The NOD further afforded you an opportunity to explain why the shipment should not be destroyed or refused entry. No material demonstrating that the product is in compliance with the Act and eligible for entry has been submitted to EPA. Instead, your company confirmed that while an application for registration of these products had been submitted, EPA has not registered these products.

EPA therefore hereby notifies you that your merchandise has been refused admission. You must export this merchandise, under supervision of the U.S. Customs and Border Protection (CBP) and within ninety (90) calendar days from the date of this Notice or within such additional time as EPA or the District Director of CBP specifies or dispose of the products. Failure to do so may result in either the destruction of the merchandise as authorized by the Act, or, if the shipment has been released to you under bond, in any action necessary to enforce the terms of said bond.

EPA acknowledges that the COVID-19 pandemic may be impacting your business. If that is the case, we will consider your specific circumstances in determining an appropriate timeline for complying with this notice, while still ensuring that the Agency receives the information it needs to timely confirm your company's compliance with FIFRA; such consideration does not extend to allowing the shipment and distribution of misbranded products into the United States.

If you have any questions, please contact Michael Brannick at 732-321-4349 or brannick.michael@epa.gov.

Sincerely,

for Dore LaPosta, Director
Enforcement & Compliance Assurance Division

cc: Maritza Cruz, Cruz Brokerage (info@cruzbrokerage.com)
Tracy Heinzman, Wiley Rein (theinzman@wiley.law)
Terrance Brennan, U.S. Customs and Border Protection (terrance.m.brennan@cbp.dhs.gov)